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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
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v.)
)
GARY JAMES ROLLER,)
)
Defendant.)
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No. CR 08-00361() RMW

**STIPULATION AND []
ORDER CONTINUING STATUS
CONFERENCE FROM APRIL 5, 2010
TO MAY 3, 2010, AND EXCLUDING
TIME FROM APRIL 5, 2010 TO MAY 3,
2010, FROM CALCULATIONS UNDER
THE SPEEDY TRIAL ACT (18 U.S.C. §
3161)**

The parties hereby request that the Court enter this order continuing the status conference from April 5, 2010 to May 3, 2010, and excluding time from April 5, 2010 to May 3, 2010. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from April 5, 2010 to May 3, 2010 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to review

1 and analyze this discovery.

2 In addition, defense counsel is currently representing the defendant in a child abuse and
3 molestation trial in state court which will be continuing the week of April 5, 2010. Because of
4 this trial, defense counsel will be unable to attend the scheduled April 5, 2010 status conference.
5 In addition, defendant is scheduled to begin a homicide trial in state court sometime in mid-to-
6 late April 2010. Government counsel will also be unavailable the week of April 19, 2010.

7 Therefore, for effective preparation and continuity of defense counsel, the parties agree
8 that the status conference currently scheduled for April 5, 2010 should be continued to May 3,
9 2010 at 9 a.m.

10 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
11 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
12 effective preparation of the defense; believes the exclusion is in the defendant's best interests;
13 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for
14 the period April 5, 2010 to May 3, 2010.

15 Given these circumstances, the parties believe, and request that the Court find, that the
16 ends of justice are served by excluding from calculations the period from April 5, 2010 to May 3,
17 2010 outweigh the best interests of the public and the defendant in a speedy trial under the
18 Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

19 IT IS SO STIPULATED.

20 DATED: 3/29/10

21 /s/ Richard Pointer
22 RICHARD POINTER
Attorney for Defendant

23 DATED: 3/29/10

24 /s/ Hanley Chew
25 HANLEY CHEW
Assistant United States Attorney
Attorney for Plaintiff

26 **[] ORDER**

27 Having considered the stipulation of the parties, the Court finds that: (1) the defendant
28 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18

1 U.S.C. § 3161, April 5, 2010 to May 3, 2010, based on the need for the defense counsel to
2 investigate further the facts of the present case, review the discovery that the government has
3 already provided and evaluate further possible defenses and motions available to the defendant;
4 (2) the exclusion of time is necessary for effective preparation of the defense and continuity of
5 counsel and is in the defendant's best interests; (3) defendant's motion to suppress and his
6 supplemental motion to suppress the search warrant are still pending and under consideration by
7 the Court and (4) the ends of justice are served by excluding from Speedy Trial calculations the
8 period from April 5, 2010 to May 3, 2010.

9 Accordingly, the Court further orders that (1) the status conference currently scheduled
10 for April 5, 2010 is vacated and that the next appearance date before this Court is scheduled for
11 May 3, 2010 at 9:00 a.m.; and (2) the time from April 5, 2010 to May 3, 2010 is excluded from
12 time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

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14 IT IS SO ORDERED.

15 DATED: 3/31/10
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17 THE HONORABLE RONALD M. WHYTE
18 United States District Court Judge
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